AMENDED IN SENATE JUNE 18, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 684

Introduced by Assembly Member Ma
(Coauthors: Assembly Members Tom Berryhill and Skinner)

February 26, 2009

An act to amend Section 1371 of the Health and Safety Code, and to amend Section 10123.13 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 684, as amended, Ma. Claim reimbursement: late payments: dental services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, health care service plans and health insurers are required to reimburse ~~uncontested claims no later than~~ *claims within* 30 or 45 working days, as ~~specified, after receipt of the claim, and if~~ *specified. If* a claim is not reimbursed within that time period, existing law requires that interest accrue at the rate of 15% per annum, for health care service plans, and 10% per annum, for health insurers.

With respect to contracts or policies covering dental services, this bill would increase the interest rate if ~~uncontested~~ *the* claims are not reimbursed within 60 or 90 working days ~~after receipt~~, as specified, *and would require the additional interest to be paid to the Department*

of Managed Health Care or the Department of Insurance to be used for the purpose of enforcing specified claim practice provisions.

Existing law specifies that a claim is contested if the plan or insurer has not received a completed claim and all information necessary to determine payer liability. A plan is required to notify a claimant of a contested claim within a specified period of time.

With respect to contracts or policies covering dental services, this bill would require the plan or insurer to include a request for the additional information in the contested claim notice. The bill would also require the plan or insurer to acknowledge receipt of the additional information within specified periods of time.

Because a willful violation of the bill's provisions with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1371 of the Health and Safety Code is amended to read:

1371. (a) A health care service plan, including a specialized health care service plan, shall reimburse claims or any portion of any claim, whether in state or out of state, as soon as practical, but no later than 30 working days after receipt of the claim by the health care service plan, or if the health care service plan is a health maintenance organization, 45 working days after receipt of the claim by the health care service plan, unless the claim or portion thereof is contested by the plan in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the health care service plan, or if the health care service plan is a health maintenance organization, 45 working days after receipt of the claim by the health care service plan. The notice that a claim is being contested

shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.

(b) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within the respective 30 or 45 working days after receipt, interest shall accrue at the rate of 15 percent per annum beginning with the first calendar day after the 30- or 45-working-day period.

(c) With respect to a health care service plan contract covering dental services or a specialized health care service plan contract covering dental services pursuant to this chapter, in addition to subdivision (b), both of the following shall apply:

(1) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 60 working days after receipt, interest shall accrue at the rate of 20 percent per annum beginning with the first calendar day after the 60-working-day period.

(2) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 90 working days after receipt, interest shall accrue at the rate of 25 percent per annum beginning with the first calendar day after the 90-working-day period.

(d) The interest that accrues in excess of 15 percent per annum pursuant to subdivision (c) and subparagraph (D) of paragraph (3) of subdivision (g) shall be paid to the department and, notwithstanding subdivision (b) of Section 1341.45, shall be deposited in the Managed Care Fund. These moneys shall, upon appropriation, be used for the purposes of enforcing Section 1371.37.

~~(d)~~

(e) A health care service plan shall automatically include in its payment of the claim all interest ~~that has accrued~~ *payable to the claimant* pursuant to this section without requiring the claimant to submit a request for the interest amount. Any plan failing to comply with this requirement shall pay the claimant a ten dollar ($10) fee.

~~(e)~~

(f) For the purposes of this section, a claim, or portion thereof, is reasonably contested where the plan has not received the completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine payer liability for the claim includes, but is not limited

to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the plan to determine the medical necessity for the health care services provided.

~~(f)~~

(g) (1) If a claim or portion thereof is contested on the basis that the plan has not received all information necessary to determine payer liability for the claim or portion thereof and notice has been provided pursuant to this section, then the plan shall have 30 working days or, if the health care service plan is a health maintenance organization, 45 working days after receipt of this additional information to complete reconsideration of the claim. ~~If~~

(2) If a plan has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim it has determined to be payable within 30 working days of the receipt of that information, or if the plan is a health maintenance organization, within 45 working days of receipt of that information, interest shall accrue and be payable at a rate of 15 percent per annum beginning with the first calendar day after the 30- or 45-working day period.

(3) With respect to a health care service plan contract covering dental services or a specialized health care service plan contract covering dental services pursuant to this chapter, if a claim or portion thereof is contested on the basis that the plan has not received all information necessary to determine payer liability for the claim or portion thereof, all of the following shall apply:

(A) The notice required under this section that the claim or portion thereof is being contested shall include a written request for the necessary information and a clear and accurate explanation of the necessity for that information.

(B) The plan shall acknowledge receipt of any information requested pursuant to this paragraph as follows:

(i) In the case of information that the claimant submits electronically, the plan shall acknowledge receipt of the information within two working days of receipt of the information by the office designated to receive the claim.

(ii) In the case of information that the claimant submits in paper form, the plan shall acknowledge receipt of the information within

15 working days of receipt of the information by the office designated to receive the claim.

(C) Upon receipt of all of the information requested pursuant to this paragraph, the plan shall process or deny the claim or portion thereof within the timeframes specified in paragraph (1).

(D) In addition to paragraph (2), both of the following shall apply:

(i) If the plan has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim it has determined to be payable within 60 working days of the receipt of that information, interest shall accrue and be payable at a rate of 20 percent per annum beginning with the first calendar day after the 60-working day period.

(ii) If the plan has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim it has determined to be payable within 90 working days of the receipt of that information, interest shall accrue and be payable at a rate of 25 percent per annum beginning with the first calendar day after the 90-working day period.

~~(g)~~

(h) The obligation of the plan to comply with this section shall not be deemed to be waived when the plan requires its medical groups, independent practice associations, or other contracting entities to pay claims for covered services.

SEC. 2. Section 10123.13 of the Insurance Code is amended to read:

10123.13. (a) Every insurer issuing group or individual policies of health insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the insurer, in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the insurer. The notice that a claim is being contested or denied shall identify the portion of the claim that is contested or denied and the specific reasons including for each reason the factual and legal basis known

at that time by the insurer for contesting or denying the claim. If the reason is based solely on facts or solely on law, the insurer is required to provide only the factual or the legal basis for its reason for contesting or denying the claim. The insurer shall provide a copy of the notice to each insured who received services pursuant to the claim that was contested or denied and to the insured's health care provider that provided the services at issue. The notice shall advise the provider who submitted the claim on behalf of the insured or pursuant to a contract for alternative rates of payment and the insured that either may seek review by the department of a claim that the insurer contested or denied, and the notice shall include the address, Internet Web site address, and telephone number of the unit within the department that performs this review function. The notice to the provider may be included on either the explanation of benefits or remittance advice and shall also contain a statement advising the provider of its right to enter into the dispute resolution process described in Section 10123.137. The notice to the insured may also be included on the explanation of benefits.

(b) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 30 working days after receipt, interest shall accrue and shall be payable at the rate of 10 percent per annum beginning with the first calendar day after the 30-working day period.

(c) With respect to a health insurance policy covering dental services or a specialized health insurance policy covering dental services, in addition to subdivision (b), both of the following shall apply:

(1) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 60 working days after receipt, interest shall accrue at the rate of 20 percent per annum beginning with the first calendar day after the 60-working day period.

(2) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 90 working days after receipt, interest shall accrue at the rate of 25 percent per annum beginning with the first calendar day after the 90-working day period.

(d) The interest that accrues in excess of 10 percent per annum pursuant to subdivision (c) and subparagraph (D) of paragraph (3) of subdivision (e) shall be paid to the department and deposited in the Insurance Fund. Notwithstanding Section 12975.7, these

moneys shall, upon appropriation, be used for the purposes of enforcing Section 10133.66.

~~(d)~~

(e) (1) For purposes of this section, a claim, or portion thereof, is reasonably contested when the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant. ~~If~~

(2) If an insurer has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim determined to be payable within 30 working days of receipt of that information, interest shall accrue and be payable at a rate of 10 percent per annum beginning with the first calendar day after the 30-working day period.

(3) With respect to a health insurance policy covering dental services or a specialized health insurance policy covering dental services, if a claim or portion thereof is contested on the basis that the insurer has not received all information necessary to determine payer liability for the claim or portion thereof, all of the following shall apply:

(A) The notice required under this section that the claim or portion thereof is being contested shall include a written request for the necessary information and a clear and accurate explanation of the necessity for that information.

(B) The insurer shall acknowledge receipt of any information requested pursuant to this paragraph as follows:

(i) In the case of information that the claimant submits electronically, the insurer shall acknowledge receipt of the information within two working days of receipt of the information by the office designated to receive the claim.

(ii) In the case of information that the claimant submits in paper form, the insurer shall acknowledge receipt of the information within 15 working days of receipt of the information by the office designated to receive the claim.

(C) Upon receipt of all of the information requested pursuant to this paragraph, the insurer shall process or deny the claim within the timeframe specified in paragraph (2).

(D) In addition to paragraph (2), both of the following shall apply:

(i) If the insurer has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim it has determined to be payable within 60 working days of the receipt of that information, interest shall accrue and be payable at a rate of 20 percent per annum beginning with the first calendar day after the 60-working day period.

(ii) If the insurer has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim it has determined to be payable within 90 working days of the receipt of that information, interest shall accrue and be payable at a rate of 25 percent per annum beginning with the first calendar day after the 90-working day period.

~~(e)~~

(f) The obligation of the insurer to comply with this section shall not be deemed to be waived when the insurer requires its contracting entities to pay claims for covered services.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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